

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Public Services - Revenue Department - Sri B.Panth, formerly Tahsildar, Kothaguda Mandal, Warangal District (now retired) - Committed certain irregularities in release of rice under food for work programme while working as Tahsildar, Kothaguda Mandal - Departmental proceedings under Rule 20 of the Andhra Pradesh Civil Services (CC&A) Rules, 1991 initiated - Imposing punishment of 20% cut in pension for a period of five (5) years besides recovery of an amount of Rs.2.4 lakhs - orders - Issued

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REVENUE (VIGILANCE-II) DEPARTMENT

G.O.Rt.No.865

Dated:13.06.2013

Read the following:

- 1) From the C.C.L.A., Lr.No.VSI(5)/459/2004, dt.4.11.2004 & .6.2006.
- 2) Government Memo No.46220/Vig.II(2)/04-3, dt.11.12.2006.
- 3) W.S.D. of Sri B.Panth, former M.R.O., Kothaguda dt.11.04.07.
- 4) G.O.Rt.No.1907, Revenue (Vig.II) Department, dt.3.9.2007.
- 5) G.O.Rt.No.1908, Revenue (Vig.II) Department, dt.3.9.2007.
- 6) From the Member, C.O.I., Lr.No.891/COI-CK/2007, dt.28.8.2008.
- 7) Government MemoNo.46220/Vig.II(2)/2004-4, dt.19.9.2008.
- 8) Representation of Sri B.Panth, former M.R.O., Kothaguda, dt.30.10.08.
- 9) Government Memo No.46220/Vig.II(2)/04-5, dt.26.02.2010
- 10) Government Memo No. 46220/Vig.II(2)/2004-6 dt.6.3.2012
- 11) Representation of Sri B.Panth, former M.R.O, Kothaguda dt. 2.5.2012
- 12)Letter No.46220/Vig.II(2)/2004-7, dt. 26-4-2013.
- 13)From Secretary APPSC Lr.No.766/RT/1/2013 dated 26-04-2013

In the reference 1st read above, Chief Commissioner of Land Administration has submitted proposals to Government stating that the District Collector, Warangal has informed that Sri B.Panth, while working as Mandal Revenue Officer, Kothaguda, Warangal has issued (2) release orders for allotment a quantity of 67 MTs. Rice under Food for Work Programme, for the (3) works which were never sanctioned nor grounded, by violating all standing instructions of the Collector on the FFW subject, resulting in misuse of 60 MTs of FFWP rice costing Rs.4.80 lakhs by colluding with the Mandal Parishad Development Officer and Assistant Engineer(Panchayat Raj) and diverted the rice to black market for personal gain and requested to initiate common disciplinary proceedings against the following officials under rule 24 of Andhra Pradesh Civil Services (CCA) rules, 1991.

- 1)Sri B.Panth, Mandal Revenue Officer (Retd)
- 2)Sri Chandra Mouli, Mandal Parishad Development Officer
(Panchayat Raj Department)
- 3)Sri P.Ravinder Reddy, Assistant Engineer (Panchayat Raj Department)

2. After following the due procedure, Government have initiated common disciplinary proceedings under rule 24 of APCS (CCA) Rules, 1991 against the above 3 and appointed Smt. Chandana Khan, IAS., Member, Commissioner of Inquiries as Enquiry Officer and the Revenue Divisional Officer, Narsampet, Warangal District as Presenting Officer for conducting common enquiry against them vide reference 4th and 5th read above.

3. In the reference 6th read above, the Commissioner of Inquiries submitted enquiry report stating that the charges against Sri B.Panth, former Mandal Revenue Officer, and Sri P.Ravinder Reddy, Assistant Engineer(Panchayat Raj) are clearly established and in respect Mandal Parishad Development Officer it has been reported that he is not above suspicion as it appears that he facilitated the deal for Mandal Revenue Officer & Assistant Engineer(Panchayat Raj) and there could have been chance of misappropriating the cash component later had the scam of FFW rice not been detected. Accordingly, a copy of the enquiry report has been communicated to the charged officer (Sri B.Panth) to offer his representation on the findings of the Inquiry Authority vide reference 7th read above (In respect of (2) other Charged Officers may take action in the Panchayat Raj Department is concern for taking further action)

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4. In the reference 8th read above, Sri B.Panth, former Mandal Revenue Officer, Kothaguda has submitted his representation stating that on the request of the Mandal Parishad Development Officer over phone, he has issued release order for 40 MTs of rice and further since another requisition was received from the Mandal Parishad Development Officer, he has also released 27 MTs of rice. After release of 67 MTs. of rice, it was noticed that 7 MTs. of rice was released in excess. Therefore, he has taken necessary steps immediately and to limit the actual allotment to 60 MTs. He has further stated that it is the duty of the Mandal Parishad Development Officer to send the requisitions for the works sanctioned and completed, that it was not the duty of the Mandal Revenue Officer to verify whether the work sanctioned was completed or not. Further, he has stated that the role played by the Mandal Parishad Development Officer prior to the issuance of the Release Orders by him was not at all considered by the Inquiry Authority in her report and the IA report are presumptive in nature and not based on records. Hence, he has requested to consider his case sympathetically and drop further action against him.

5. After examining the representation of Sri B.Panth, Mandal Revenue Officer(Retd) keeping in view the findings of the enquiry report, Government have observed that the amount Rs.4.00 lakhs returned by CO-2(Sri Chandra Mouli, MPDO) to CPO reflects to the cash component of Rs.5.00 lakhs released by CPO to CO-2 (i.e. MPDO) but not the cost of Rice. Now the recovery proposed is the cost of Rice component of 67.00 Mts which was diverted to the black market and misused by both the CO-1 and CO-3 i.e. Mandal Revenue Officer & Assistant Engineer, Panchayat Raj Department. Hence, Government have provisionally decided to recover the amount equivalent to half the cost of rice i.e. Rs.2.4 lakhs(total 4.8 lakhs) from the Charged Officer-1 Sri B.Panth, Mandal Revenue Officer (Retd) apart from imposition of 20% cut in pension for a period of 5 years on Sri B.Panth, Mandal Revenue Officer(Retd). Accordingly, a show cause notice has been issued to Sri B.Panth, Mandal Revenue Officer, (retired) vide reference 10th read above.

6. In response to the Show Cause notice, Sri B.Panth, formerly Mandal Revenue Officer(now Retd) has submitted his representation to Government stating that the Mandal Parishad Development Officer, Kothaguda has requested him on phone to issue Release Orders for 40 MTs of rice under Food for Work Programme and he informed that he would depute the concerned Assistant Engineer along with the written requisitions for receiving the Releases orders. Accordingly, Sri Ravinder Reddy, Assistant Engineer met him in his office along with the requisition for 40 Mts of rice and requested for handing over the Release Orders to him as requested by the Mandal Parishad Development Officer on phone. Since the rice requisition was covered by the allotment orders issued by the Collector, Warangal in his proceedings No.C/G2/2285/2001, dated 21.07.2003, he had issued the Release Order for 40 Mts of rice on 11.08.2003 duly following the office procedure. The Mandal Parishad Development Officer sent another written requisition on 23.08.2003 for release of 27 Mts of rice and he has issued Release Orders as per the requisition. The fact of requisition of 7 Mts of rice in excess of the allotment order was not brought to his notice by the office staff or by the Mandal Parishad Development Officer. However, soon after it was noticed, necessary steps were taken to limit the lifting of the stock to the extent of actual allotment i.e, only for 60 Mts. Of rice. He has already submitted a Xerox copy of the requisition dated 23.08.2003 of the Mandal Parishad Development Officer for release of 27 Mts of rice. He has further submitted that the District Collector, Warangal allotted 60 Mts rice for the work mentioned in his proceedings No.C/G2/2285/2001, dated 21.07.2003 and the release orders issued by him were strictly in conformity with the allotment made by the District Collector. He has further submitted that , it is the duty and responsibility of the Mandal Parishad Development Officer to send the requisitions for the works sanctioned and completed. It is not the job of the MRO to verify whether the work sanctioned was completed or not. The role of the Mandal Revenue Officer is limited to the extent of verifying the allotment order issued by the Collector, for a particular work and issue release orders as and when requisition is filed by the Mandal Parishad Development Officer. Therefore, the Mandal Revenue Officer cannot be held responsible if the Mandal Parishad Development Officer sent requisitions for the works which were not sanctioned and completed. From the above facts, it may be observed that, he did

not commit any irregularity and issued rice as per the requisitions filed by the Mandal Parishad Development Officer, which is strictly in accordance with the scheme of Food for Work Programme.

7. He has further submitted that, the Member, Commissioner of Inquiries did not consider any of the above facts, she has held the charge as proved against him on the sole ground that he should not have issued release order basing on the oral telephonic message from the Mandal Parishad Development Officer. The observation is made without considering the practicalities at the field level. At times, the officers working down below at Mandal level are bound to take decisions/actions in extending their co-operation to each other in implementing the Government Schemes within the time schedule, without waiting for any written communications. The Mandal Administration will not run smoothly, if such cooperation is not given. Hence, the Member, Commissioner of Inquiries cannot hold the charge as proved on this ground alone. Further, had he colluded with the other officials, there was no need for him to withhold one of the two release orders. It was only because of his refusal to release the stock, the Engineering Officials developed grudge and started creating problems for him, without knowing the fact that they too would be involved in the proceedings. During the course of enquiry, the Member, Commissioner of Inquiries never allowed him to examine the witnesses. The other two charged officers were never examined by the Commissioner of Inquiries in his presence. In order to elicit truth, he had requested the Member, Commissioner of Inquiries on 14.05.2008 to allow him to cross examine the other two charged officers. But the same was refused, he also filed a requisition before the Member, Commissioner of Inquiries on 31.05.2008 to allow him to examine the witnesses from his side. But, his request was also rejected without recording any reasons vide Govt.Memo.No.891/COI/CK/A1/2007, dated 4.6.2008. In a case of Krishna Chandra Tandon Vs.Union of India, reported in AIR 1974 SC 1589, the Hon'ble Supreme Court held that the conclusion arrived at by the Inquiry Officer on the basis of the enquiries conducted by him behind the back of the Charged Officer are not in orders. No where it is mentioned in the enquiry report that the enquiry was conducted in the presence of other charged officers or witnesses. Thus, he was denied reasonable opportunity to defend his case and the enquiry against the other two charged officers was conducted in his absence in spite of the fact that all the three charged officers are concerned with the same case. No where it was specified in the charge that any amount was mis-appropriated by him. The charge specified that the rice issued to the Assistant Engineer was misused. There is a lot of difference between misuse and Mis-appropriation. The enquiry report is silent on the crucial point as to whether any loss was caused to Government on account of misuse and who misused the rice and from whom it is to be recouped and to what extent. If it was a loss to Government due to misuse by the Assistant Engineer or by the beneficiaries, the same is required to be recouped from them and not from him, as he was only the releasing authority and not work executing authority. Therefore, the recovery indicated in the second show cause notice is beyond the scope of the charge and not specific on the point of loss to Government and its recovery.

8. He has requested the Government that his submissions may be considered sympathetically and further action may be dropped so as to enable him to get his pensionary benefits.

9. Government after examining the explanation of the Delinquent Officer, keeping in view of the findings of the Enquiry Officer have arrived at a conclusion that the charged Officer did not exercise due diligence expected of him while issuing the release order for the stock of rice. In all probability his explanation that the rice stock was released on the telephonic request of the Mandal Parishad Development Officer is only an after thought. But even if it were true he should not have released the stock without any written requisition received from the Mandal Parishad Development Officer. This facilitated diversion of rice to the black market. He is thus squarely responsible for the gross misappropriation of rice stock. Therefore, Government hereby impose of a punishment of 20% cut in pension for a period of five (5) years besides recovery of cost of the rice amounting Rs. 2,40,000/- (Rupees

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two lakhs forty thousand) i.e half of total amount of Rs. 4,80,000/- on Sri B.Panth, formerly Tahsildar (now retired) after due consultation with A.P. Public Service Commission. A copy of the Andhra Pradesh Public Service Commission concurrence is enclosed herewith.

10. The Chief Commissioner of Land Administration, Andhra Pradesh, Hyderabad is requested to take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

M.G. GOPAL
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Chief Commissioner of Land Administration,
A.P., Hyderabad.
The District Collector, Warangal.
Sri B.Panth, former Mandal Revenue Officer, Kothaguda, Warangal
through District Collector, Warangal.
The Secretary, Andhra Pradesh Public Service Commission,
Hyderabad.
The Accountant General, Andhra Pradesh, Hyderabad.
Copy to:
The Panchayat Raj & Rural Development Department.
S.f./S.c.

//FORWARDED BY ORDER//

SECTION OFFICER